# Headquarters U.S. Air Force

***Integrity - Service - Excellence***

# Sexual Assault:

# USAF Prevention and Response

**Jim Russell**

**AFLOA/JAJM**

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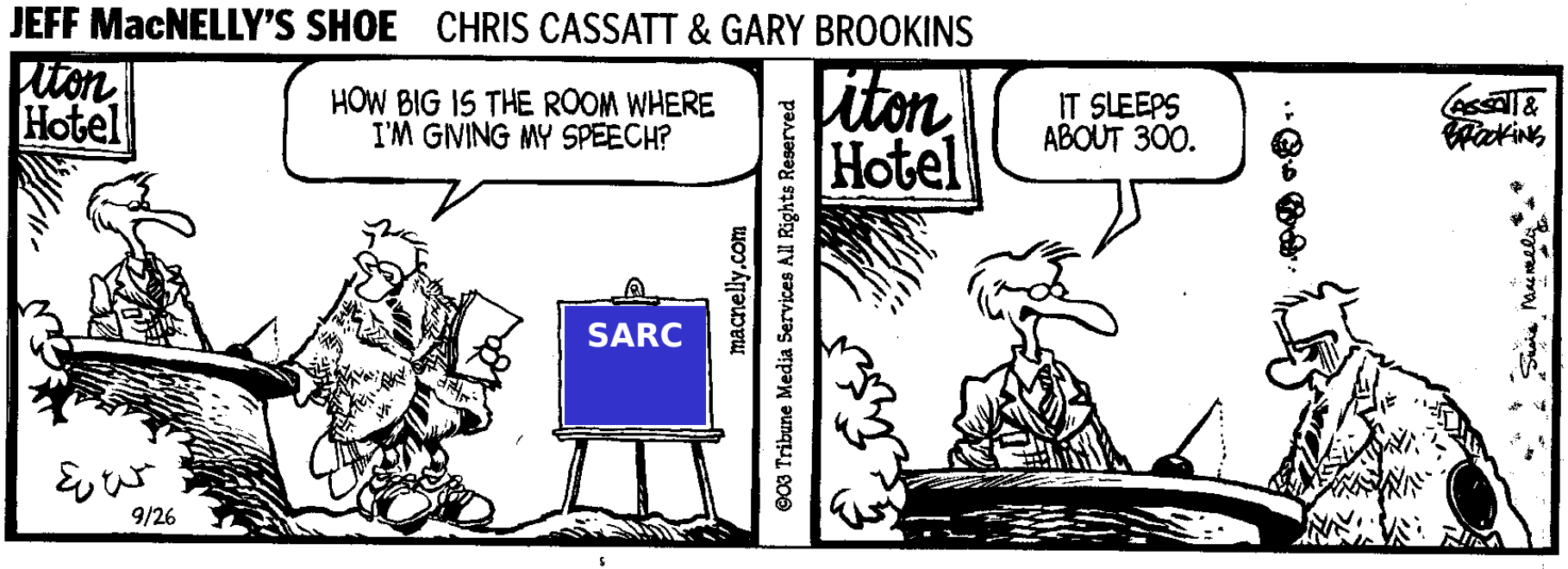
# Reality???


JEFF MacNELLY'S SHOE CHRIS CASSATT & GARY BROOKINS
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HOW BIG IS THE ROOM WHERE I'M GIVING MY SPEECH?
SARC
macnelly.com
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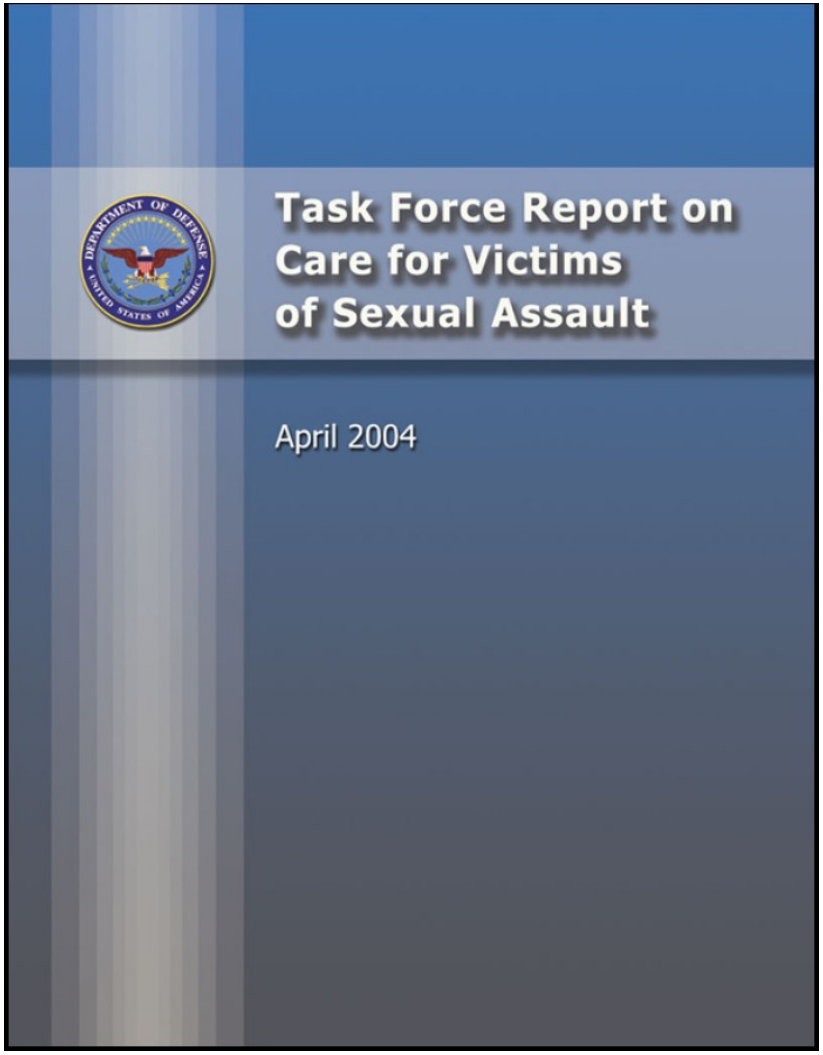
iton Hotel
IT SLEEPS ABOUT 300.
CASSATT & BROOKINS

# AF Policy Overview

- Why?
  - Where we were…
- Where we are…
  - Policy
  - Confidentiality
- Where we're going…

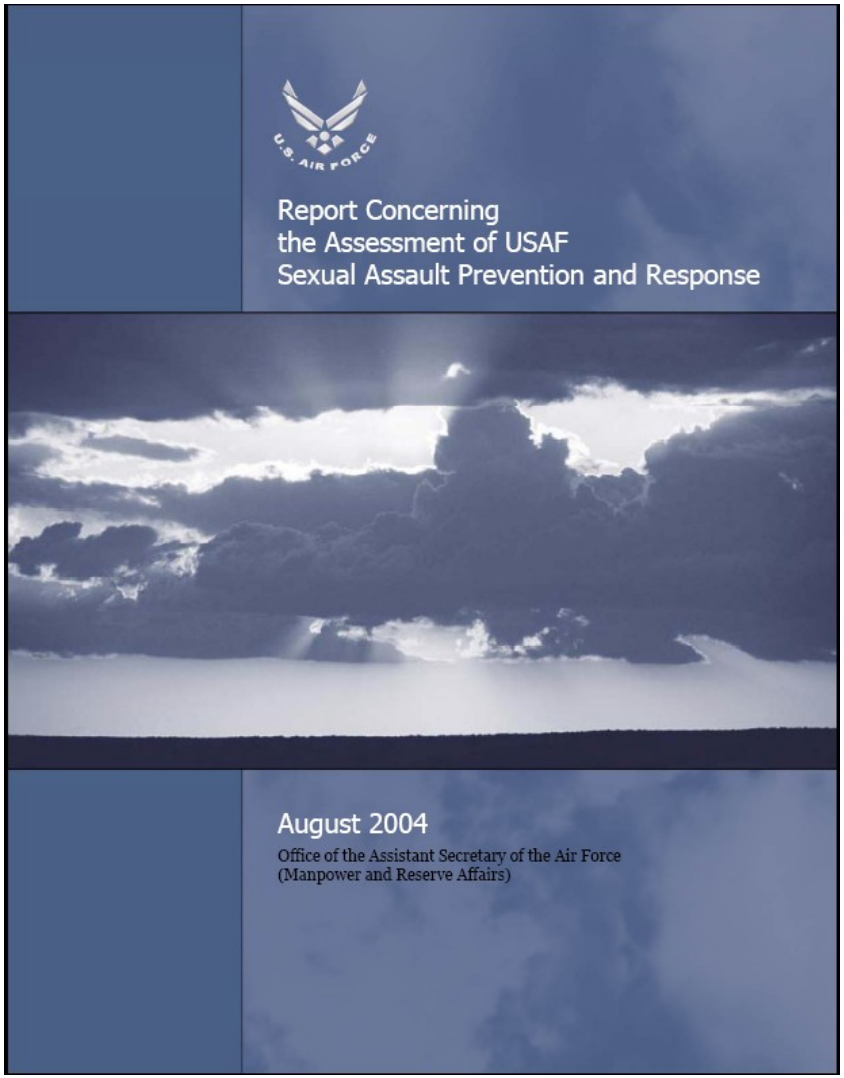
# Where We Were . . . .

# Background




- **2003 - USAFA sexual assault allegations**
  - ***Denver Post et al***
  - **Oprah**
- **2004: DoD Task Force on Care for Victims of Sexual Assault**

# AF Report


U.S. AIR FORCE
Report Concerning
the Assessment of USAF
Sexual Assault Prevention and Response
August 2004
Office of the Assistant Secretary of the Air Force
(Manpower and Reserve Affairs)

- **Findings and recommendations focused on six topic areas:**
  - **Sexual Assault Realities**
  - **Policy and Leadership**
  - **Education and Training**
  - **Reporting**
  - **Response**
  - **AEF/Deployment**

# Major Findings

- ***Policy – No cogent AF-wide sexual assault policy***
  - **No single office designated to develop, promulgate & maintain policy**
  - **Key sexual assault terms/concepts require definition**
    - **e.g. sexual assault v sexual harassment; liaison v advocate; confidentiality, privacy, and anonymity**
  - **Lack compelling message … policy key to message**
- ***Commanders unaware of prevalence of sexual assault problem***
  - **Sexual assaults underreported – mask issue**
  - **Commanders deal with sexual assaults on case-by-case basis … not as cultural issue**
  - **Databases inadequate for trend analysis/oversight**

# Major Findings

- ***Education, training and prevention – primarily focused on sexual harassment in the workplace – not sexual assault***
  - **No clear sexual assault policy / message reflected in current training – sexual assault education sporadic**
  - **Functional managers focus on assault "response" not "prevention"**
  - **Need creative, targeted training programs to shift cultural thinking – today's "power point" *methodology* not effective**
- ***Confidentiality – victim's lack of privacy most frequently quoted barrier to reporting sexual assaults***
  - **How many AF sexual assaults go unreported?**
  - **Key Issue: balancing CC's responsibility for maintaining good order/ discipline with victim**

# Major Findings

- ***Response – Current sexual assault response programs emphasize investigative / judicial process***
  - **Imbalance between investigative/judicial needs and sustained victim support/care**
  - **Issues w/timelines of lab processing and investigations**
  - **VWAP program execution inconsistent**
    - **Confusion between VWAP victim "liaison" and victim "advocate"**
- ***Victim care – inadequate***
  - **No AF policy that fully integrates response to victim**
  - **No requirement for victim support program until Apr 04**
  - **Limited continuity of care after judicial process and**

# Major Findings

- ***AEF/remote environment – creates unique challenges for sexual assault prevention and response***
  - **~40% of deployed CCs are not CCs at home station**
  - **Loss of unit integrity impacts continuity of programs**
  - **Non-AF command structure may inhibit reporting**
  - **Close living environment magnifies leadership "fishbowl"**
  - **Investigation, medical and lab processing issues exacerbated**

# Article Titled: “Revelry”

AP / Rafiq Maqbool Col. Tom Mackenzie dances with Sgt. Larissa Copeland of U.S. Combined Forces Command during a New Year's Eve celebration at their base in Kabul, Afghanistan, early Saturday.

# Where We Are . . . .

# *In a nutshell ….*

# SAPR Program

**Excellence**
Mutual Respect
People depend on and trust me
My contributions are valued
I recognize the worth of my fellow Airmen

**Service**
Respect for the Institution
I go the extra distance
This is a higher calling
I follow my leader and protect my wingman

# Air Force Policy Guidance

- Purpose (Paras 1,2)
- Definitions (Para 3)
- Responsibilities and Authorities (Para 4)
  - HQ responsibilities
  - SARC and VA
- Operational Policy (Para 5)
  - Training
  - Reporting
  - Prevention and Response in the Deployed Environment
- Confidentiality and Restricted Reporting (Para 6)

# Air Force Policy Guidance

- **Use of Information (Para 7)**
- **Collection and Preservation of Evidence (Para 8)**
- **Keeping Victims Informed (Para 9)**
- **Victim Collateral Misconduct (Para 10)**
- **Procedures for Disciplinary Action (Para 11)**
- **Sexual Assault Case Disposition Authority (Para 12)**
- **Review of Administrative Separation Actions Involving Victims of Sexual Assault (Para 13)**
- **Collaboration with Civilian and Military Authorities (Para 14)**
- **Commander's Response to Allegations of Sexual Assault**

  **(Para 15)**

# Purpose (Paras 1,2)

**"Sexual assault is criminal conduct. It falls well short of the standards America expects of its men and women in uniform. It violates Air Force Core Values. Inherent in our Core Values of Integrity First, Service before Self, and Excellence in All We Do is *respect*: self-respect, mutual respect, and respect for our Air Force as an institution. Our core values and respect are the foundation of our Wingman culture—a culture in which we look out for each other and take care of each other. Incidents of sexual assault corrode the very fabric of our Wingman culture; therefore we must strive for an environment where this type of behavior is not tolerated and where all Airmen are respected."**

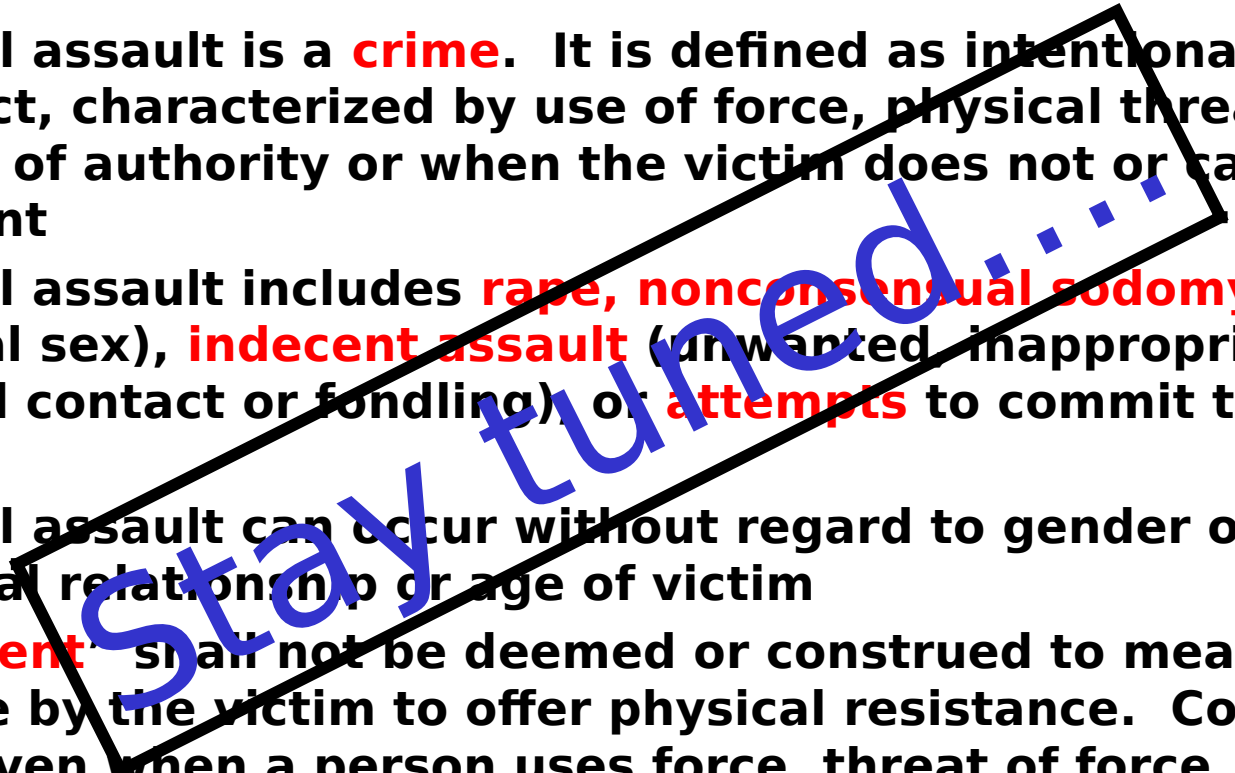
**Para 2**
**Department of the Air Force**
**Policies and Procedures for the Prevention of and Response to Sexual Assault**

# Air Force Policy Guidance

- Purpose (Paras 1,2)
- **Definitions (Para 3)**

# Definition of Sexual Assault

- Sexual assault is a **crime**. It is defined as intentional sexual contact, characterized by use of force, physical threat or abuse of authority or when the victim does not or cannot consent
- Sexual assault includes **rape, nonconsensual sodomy** (oral or anal sex), **indecent assault** (unwanted, inappropriate sexual contact or fondling), or **attempts** to commit these acts
- Sexual assault can occur without regard to gender or spousal relationship or age of victim
- "**Consent**" shall not be deemed or construed to mean the failure by the victim to offer physical resistance. Consent is not given when a person uses force, threat of force, coercion or when the victim is asleep, incapacitated, or u




**This a definition for training and education – it does not affect the definition of any offenses under the UCMJ**

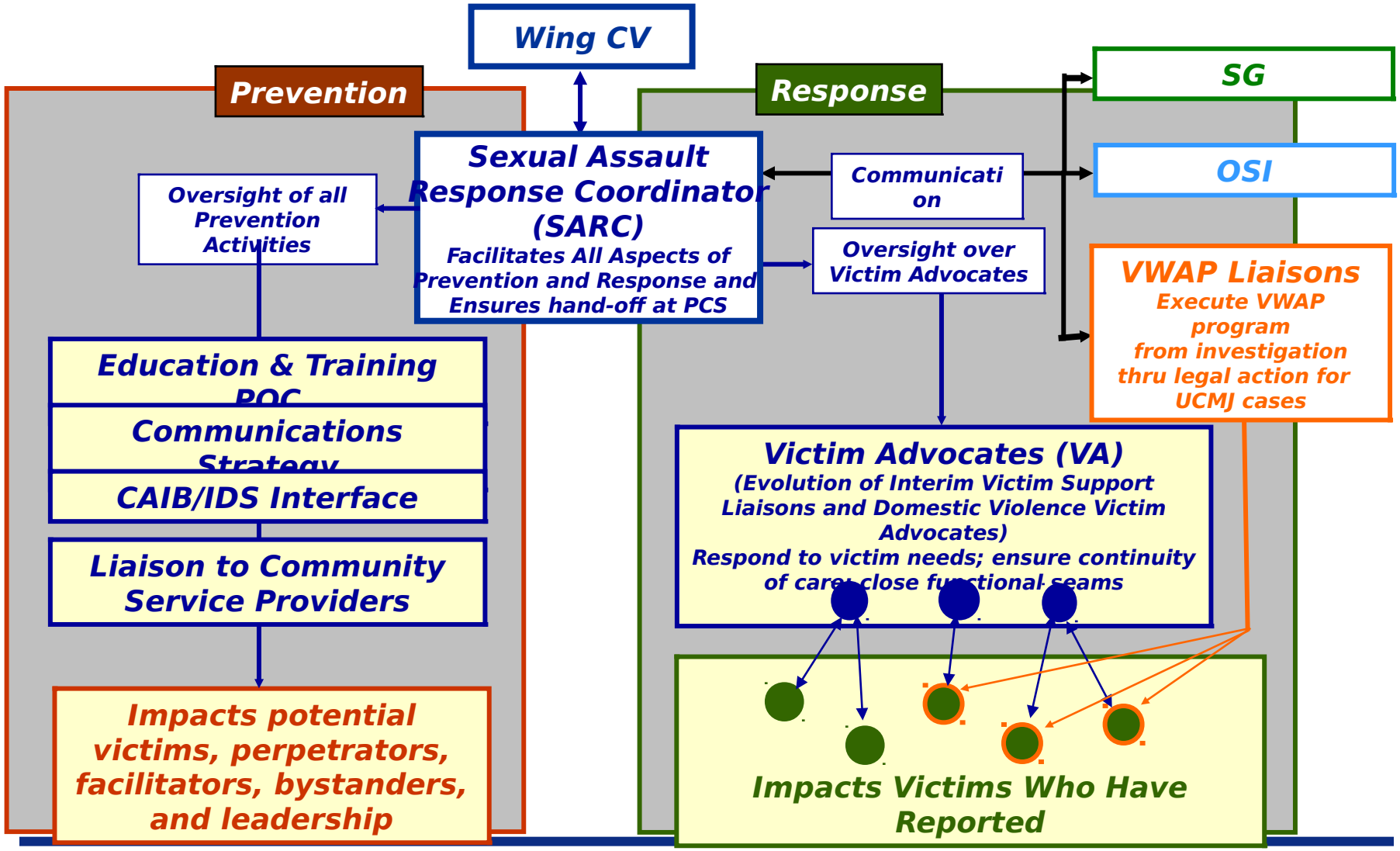
# Definition of Victim

- **Victim: A person who alleges direct physical, emotional, or pecuniary harm as a result of the commission of a sexual assault or other crime of interpersonal violence and who has a connection with the installation**
  - **Eligible for and provided services by the AF consistent with their legal status**
  - **Referral to the appropriate civilian agency to the provision of all services available to an active duty member**
  - **Broader than DoD definition (eligible for treatment at MTF)**

# Air Force Policy Guidance

- Purpose (Paras 1,2)
- Definitions (Para 3)
- **Responsibilities and Authorities (Para 4)**
  - **HQ responsibilities**
  - **SARC and VA**

# Improved Response
## SARCs and VAs


Wing CV
Prevention
Response
SG
OSI
Sexual Assault Response Coordinator (SARC)
Facilitates All Aspects of Prevention and Response and Ensures hand-off at PCS
Communication
Oversight of all Prevention Activities
Oversight over Victim Advocates
VWAP Liaisons
Execute VWAP program from investigation thru legal action for UCMJ cases
Education & Training POC
Communications Strategy
CAIB/IDS Interface
Liaison to Community Service Providers
Victim Advocates (VA)
(Evolution of Interim Victim Support Liaisons and Domestic Violence Victim Advocates)
Respond to victim needs; ensure continuity of care, close functional seams
Impacts potential victims, perpetrators, facilitators, bystanders, and leadership
Impacts Victims Who Have Reported

# Sexual Assault Response Coordinator (SARC)

- New position created to implement and manage the installation level sexual assault prevention and response program
- 3 main duties
  - Prevention/risk reduction education
  - Victim care 24/7 and case management
  - Select, train, and supervise victim advocates
- Reports directly to Vice Wing Commander

# Victim Advocates

- Assigned by SARC to a particular victim
- Provides support, liaison support and care for victims
- Active duty military and DoD civilian employee volunteers
- Certain individuals cannot volunteer because of potential conflict of interest
  - Examples:  OSI, SF, SJA, Chaplain, MEO
- Will **NOT** provide any form of clinical counseling or legal, investigative, or other guidance that should be provided by a certified professional in these specific areas of expertise

# SARC Responsibilities
# Sexual Assault Case Management Group

- **Sexual Assault Case Management Group**
  - **Chaired by SARC; meets monthly**
    - **SARC, assigned victim advocate, AFOSI, SF, SG, HC, JA & victim's commander**
  - **Review unrestricted cases, improve reporting, facilitate monthly victim updates, process improvement to enhance victim care**
  - **Restricted reports case management**
    - **SARC, assigned VA, SG**

# Air Force Policy Guidance

- Purpose (Paras 1,2)
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- Operational Policy (Para 5)
  - Training
  - Reporting
    - Affirmative duty for supervisor (military or civilian) to notify OSI of any report by subordinate of SA
  - Prevention and Response in the Deployed Environment
- **Confidentiality and Restricted Reporting (Para 6)**

# Air Force Policy Guidance

- Use of Information (Para 7)
- Protect privacy of victim
  - FOUO
  - Involved CCs
  - Legal personnel
  - SARC / VA
  - HCP
  - Disclosures must comply with PA

# Air Force Policy Guidance

- Use of Information (Para 7)
- **Collection and Preservation of Evidence (Para 8)**

# Air Force Policy Guidance

- Use of Information (Para 7)
- Collection and Preservation of Evidence (Para 8)
- **Keeping Victims Informed (Para 9)**
  - **Monthly requirement to update the victim on status**

# Air Force Policy Guidance

- Use of Information (Para 7)
- Collection and Preservation of Evidence (Para 8)
- Keeping Victims Informed (Para 9)
- **Victim Collateral Misconduct (Para 10)**
  - **CC to consider whether appropriate to defer resolution of any victim collateral misconduct**
    - **Commander has authority but may defer disciplinary action until after disposition of the SA case**
    - **Balance objectives of holding members accountable with the intent to avoid unnecessary additional trauma to SA victim**

# Air Force Policy Guidance

- Use of Information (Para 7)
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- Victim Collateral Misconduct (Para 10)
- **Procedures for Disciplinary Action (Para 11)**

# Air Force Policy Guidance

- Use of Information (Para 7)
- Collection and Preservation of Evidence (Para 8)
- Keeping Victims Informed (Para 9)
- Victim Collateral Misconduct (Para 10)
- Procedures for Disciplinary Action (Para 11)
- Sexual Assault Case Disposition Authority (Para 12)
- **Review of Administrative Separation Actions Involving Victims of Sexual Assault (Para 13)**
  - **Discharge authority to be advised if SA victim is being administratively discharged**
    - **Ensure fill and fair consideration of victim's military service and particular status**

# Air Force Policy Guidance

- **Collaboration with Civilian and Military Authorities (Para 14)**

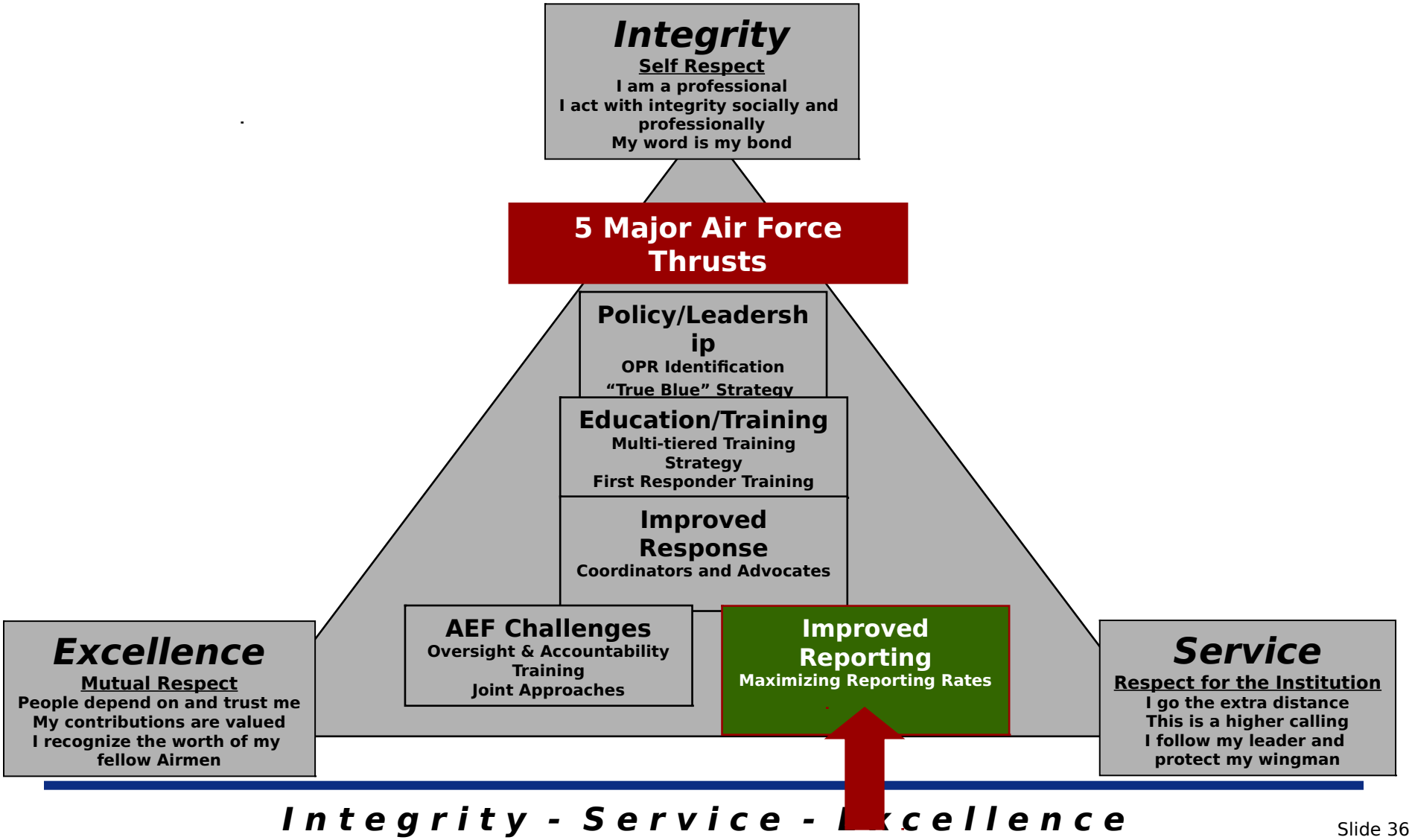
# Air Force Policy Guidance

- Collaboration with Civilian and Military Authorities (Para 14)
- **Commander's Response to Allegations of Sexual Assault (Para 15)**
  - **DoD provided CC checklist for responding to allegations of SA**
  - **Consult with SJA before "independent action"**

# Overview

- AF Policy
- **Confidentiality**

# Enhancing Reporting



# How to Enhance Reporting?

- SAs most underreported violent crimes
- Victim's lack of privacy/confidentiality is most frequently quoted barrier to reporting in AF assessment and academic research
  - Loss of control over information
  - Stigma, fear, shame

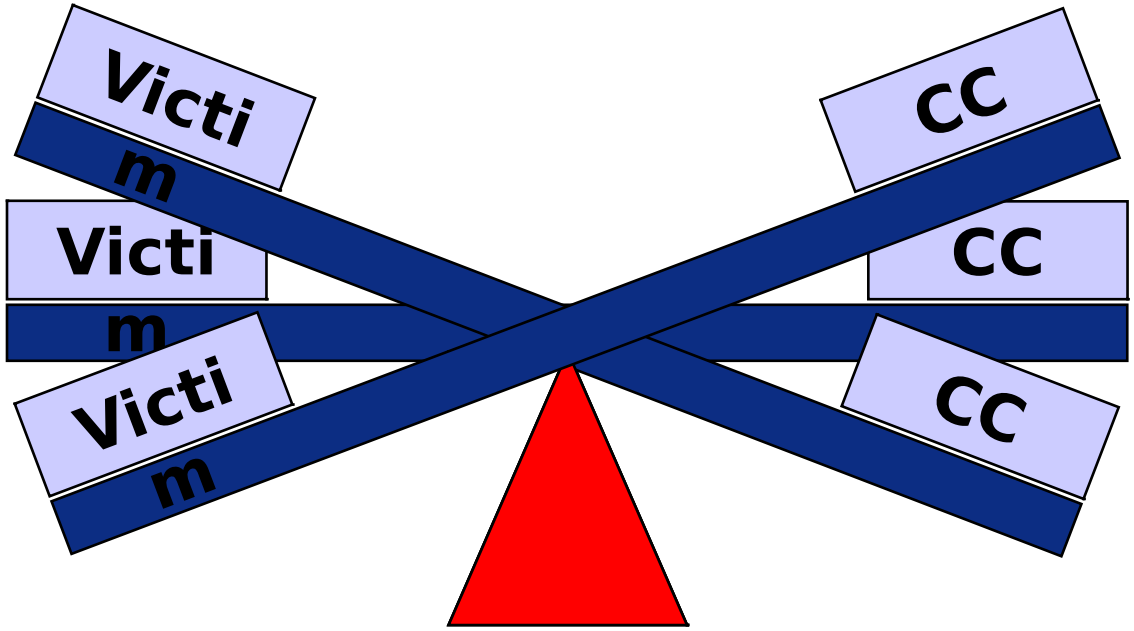
# How to Enhance Reporting?

- **Commanders need to be able to command**
  - **Needs accurate information ASAP**
  - **Commander held responsible regardless of what he/she knows**
  - **Mission Decisions: PRP Status; Deployments; Capacity to perform duties without harming self or others; Authority to bear arms**
  - **Accountability for victim & offender**
  - **Suicide**

# How to Enhance Reporting?

- Intense debate over appropriateness of confidentiality

## Victim's needs vs commander's need to know



## Focus on AF Reporting Policies and Procedures

- Maximize privacy
- Improve victim care
- Investigation / Prosecution

10%

Victims who officially report

All

IL (Invisibility Line)

# Confidentiality

- **DoD concluded confidential reporting option necessary**
  - **Provide additional time and increased control over the release and management of the victim's personal information**
  - **Empower the victim to seek relevant information and support**
  - **Leading to informed decision about participating in the criminal process**

**Simple Bottom Line**

**I believe it will result in more unrestricted reports and provide more victims with support**

# Reporting

- DTM JTF-SAPR-009 issued 16 Mar 05
  - Effective 14 Jun 05
- DOD preference is for unrestricted reporting of offenses
- Policy makes it the commander's responsibility to protect victim privacy
- Two reporting options
  - Restricted
  - Unrestricted

# Restricted Reporting

- Disclose details of assault to specific individuals without triggering investigative process
  - SARC
  - VA
  - Healthcare provider (who notifies SARC)
- Others with a valid privilege (like chaplains) may receive reports but they are not restricted reports unless forwarded to above
- Any communication (oral, written, electronic) that is personal information relating to the victimization made to a SARC, victim advocate (VA), or health care provider

# Restricted Reporting

- **Who may make a restricted report**
  - **Active duty military personnel of the Armed Forces**
  - **Members of Reserve if performing federal duty (active duty training or inactive duty training)**
  - **Members of the National Guard in Federal service (Title 10) status)**
  - **Coast Guard when attached to the Department of Defense**

# Restricted Reporting

- **Who may NOT make a restricted report**
  - **Retired members of any component**
  - **Dependents**
  - **AF civilian employees**
  - **Civilians**
- **Must be military**

# Restricted Reporting

- **The victim will be asked to acknowledge in writing an understanding of the limits on confidential reporting and the reasons that unrestricted reporting is preferred by DOD**
- **Allows for collection of forensic evidence without giving up confidentiality**
  - **Rape kit to be anonymously coded and not processed until victim gives consent**
  - **To be kept by OSI (interim)**
  - **To be kept for 1 year**

# Restricted Reporting

- **Release of generic data to CC**
  - **Incident characterized as recent (within the last 30 days) or not recent (older than 30 days)**
    - **Date and time (night or day)**
    - **General information as to location (a dorm, parking lot, off base etc)**
    - **Number of alleged assailants**
    - **Number of alleged victims**
    - **Nature of assault (rape, forcible sodomy, indecent assault)**
  - **CC use of info**
    - **Not initiate investigations or use in a manner that is likely to ID**
    - **Enhance preventive measures**
    - **Enhance the education and training of their personnel**
    - **Scrutinize organization's climate and culture for contributing factors**

# Restricted Reporting

- Healthcare provider conveys to commander any adverse duty impact info
  - Uses current process without identifying info result of sexual assault

# Restricted Reporting

- Unauthorized disclosure basis for disciplinary action
- When to disclose covered communications
  - Victim consents in writing
  - Other exception applies

# Restricted Reporting

- **Exceptions for disclosure**
  - **Communication reveals imminent danger**
  - **Victim releases**
  - **Adverse impact on duty performance (PRP, weapons issues)**
  - **Ordered by MJ**
  - **Ordered by civilian court**
  - **Required by fed or state statute (child abuse info)**
- **Disclose only what's necessary to satisfy the purpose of the disclosure**

# Unrestricted Report

- SA report made through normal reporting channels
  - Chain of command
  - Law enforcement
  - AFOSI
- Report made to SARC or healthcare provider where the individual does not elect restricted reporting
- SARC notified and VA assigned

# Independent Report

- **SA disclosed to command or LE from source independent of restricted reporting avenues**
  - **An official investigation may be initiated**
- **When SARC or VA learn of independent report, consult with AFOSI and notify victim**
- **Covered communications not released unless the victim authorizes the disclosure or another exception applies**

# Restricted Reporting

- **Disclose details of assault to specific individuals without triggering investigative process**
  - **Sexual Assault**
    - **Sexual Assault Response Coordinator**
    - **Victim Advocate**
    - **Healthcare provider**
  - **Domestic Abuse**
    - **Supervisor of Victim Advocate**
    - **Victim Advocate**
    - **Healthcare provider**
- **Others with a valid privilege (like chaplains) may receive reports but they are not restricted reports unless forwarded to above**
- **Any communication (oral, written, electronic) that is personal information relating to the victimization made to a SARC, victim advocate (VA), or health care provider**

# Restricted Reporting Interface

- Different programs
  - Run by different functionals
  - Domestic abuse
    - AF: FAP in medical
    - Other services: Generally Personnel and Family Support Centers
  - Sexual assault
    - AF: commander (A1 at HQ)
    - Other services: Generally Personnel and Family Support Centers
- Different pool of eligibles
- Overlapping crimes
- Different victim advocates

# Restricted Reporting

- Who may make a sexual assault restricted report
  - Active duty military personnel of the Armed Forces
  - Members of Reserve if performing federal duty (active duty training or inactive duty training)
  - Members of the National Guard in Federal service (Title 10) status)
  - Coast Guard when attached to the Department of Defense
- Who may make a domestic abuse restricted report
  - Adult victims of domestic abuse eligible for military medical care
  - Larger pool than sexual assault eligibles:
    - Dependents, civilians and contractors overseas

# Restricted Reporting

- **Eligibility for domestic abuse restricted reporting is 2 part test**
  - **Eligible for medical care**
  - **Either (1) domestic violence or (2) a pattern of behavior resulting in emotional/psychological abuse, economic control, and/or interference with personal liberty when such violence or abuse is directed toward a person of the opposite sex who is:**
    - **A current or former spouse;**
    - **A person with whom the abuser shares a child in common, or**
    - **A current or former intimate partner with whom the abuser shares or has shared a common domicile**

# Domestic Abuse & Sexual Assault Restricted and Unrestricted Reporting

| | DA Restricted | SA Restricted | DA & SA Unrestricted |
|---|---|---|---|
| Confidentiality | Yes (with exceptions) | Yes (with exceptions) | No |
| Eligibility | Adult Victims | Active duty military only | All personnel |
| Law enforcement investigation | No | No | Yes |
| Command involvement | No | No | Yes |
| Medical exam | Forensic exam | Forensic exam | Forensic exam |
| Medical services | Available | Available | Available |
| Counseling services | Available | Available | Available |
| Victim advocate services | Available | Available | Available |

# State Issues

- Determine exactly what the state law is and what it requires
  - What they think ain't necessarily so
- Coordinate with local law enforcement, the DA, hospital counsel and any other local players as to how that law is locally implemented
- Rape Reporting Requirements for Non-vulnerable Adults, ARPI
- Coordinate with other services
- Send it up the JAG chain and have the SARC do the same to their MAJCOM SARC

# Where We Are Going . . . .

# AFPD and AFI

- In draft
- AFPD in 3 letter coord….

# Prevention

- Have a reasonable handle on response piece although more to be done…
- Focusing on prevention piece …
- AF held two Symposiums on Prevention in 2007
  - National experts

# Prevention v. Risk Reduction

- Traditional “prevention” efforts geared toward potential victims
  - Flawed logic:  assumed victims could control and were responsible
  - Geared toward stranger rape victims:  lights and whistles
- Need to gear prevention efforts towards those who can actually prevent the crime
- Risk reduction for potential victims
  - Must be carefully done
  - Focus on risky situations in nonstranger settings

# Bystanders and Facilitators

- Biggest challenge for AF
- Requires major cultural change
- Discourage facilitators
- Encourage bystander intervention
  - Need to learn how to intervene
  - Need to deal with social pressure
  - Tied to core values

# What We Don't Know

- Need to expand knowledge base of sexual assault in the military
  - Do general population studies accurately reflect military population?
  - 'Blue' the studies
- Replicate studies using AF populations
  - CDC
  - DOJ
  - NIH

# Ongoing Reviews

- DoD SAPRO
- RAND
- GAO
- DoD Task Force on Sexual Assault in the Military Services

# VWAP Policy

- AF must treat victims and witnesses with fairness and respect
  - Bases for program requirements: Federal statutes, Department of Defense implementing directives, AF directives
- Applies in all cases in which criminal conduct adversely affects victims or in which witnesses provide information regarding criminal activity
- AF must reasonably protect V/W from accused

# VWAP Changes to AFI 51-201

- 7.14 – 7.14.2 describe SAPR program
- 7.14.3
  - The VWAP and SAPR programs are complimentary programs providing support and services to the victims as required by their governing directives
  - The LRO, or other officials appointed in this chapter, and the SARC and VA, must work in concert to discharge their individual responsibilities and provide the victim appropriate information on available options and resources, notice of relevant events in the investigative and judicial processes, and support
  - The LRO, or any other official appointed in this chapter, remains responsible for the delivery of VWAP services

Thank you for your attention!!!
Your questions, please!

# Restricted Reporting

- **Who may NOT make a restricted report**
  - **Sexual assault**
    - **Retired members of any component**
    - **Dependents**
    - **AF civilian employees**
    - **Civilians**
    - **Must be military**
    - **Must be for covered crime**
      - **Sexual assault only, at this time**
      - **Other associated crimes**
  - **Domestic abuse**
    - **Anyone who fails the test**

# Restricted Reporting

- **The victim will be asked to acknowledge in writing an understanding of the limits on restricted reporting and the reasons that unrestricted reporting is preferred by DOD**
- **Allows for collection of forensic evidence without giving up confidentiality**
  - **Domestic abuse: establish procedures**
  - **Sexual assault**
    - **Kit to be anonymously coded and not processed until victim gives consent**
    - **To be kept for 1 year**

# Restricted Reporting

- **Release of generic data to CC**
  - **Domestic abuse: next FAC meeting**
  - **Sexual assault: w/in 24 hours of report**

AF reporting:
- Incident characterized as recent (within the last 30 days) or not recent (older than 30 days)
- Date and time (night or day)
- General information as to location (a dorm, parking lot, off base etc)
- Number of alleged assailants
- Number of alleged victims
- Nature of assault (rape, forcible sodomy, indecent assault)

- **CC use of info**
  - **Not initiate investigations or use in a manner that is likely to ID**
  - **Enhance preventive measures**
  - **Enhance the education and training of their personnel**
  - **Scrutinize organization's climate and culture for contributing factors**